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7 Attorneys for Plaintiffs
BROADCAST MUSIC, INC. et al.

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12
13 BROADCAST MUSIC, INC. et al.,

14 Plaintiffs,

15 v.

16 G&M GAME CORPORATION; KRAZY
17 KOYOTE BAR & GRILL; GEORGE D.
HEADLEY, JR. & MARCOS ANTHONY
HEADLEY, each individually,

18 Defendants.
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No. C07-02453 CRB

Action Filed: May 8, 2007

DECLARATION OF KAREN S. FRANK
IN SUPPORT OF PLAINTIFFS'
BROADCAST MUSIC, INC. et al.'s
NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGMENT

Date: December 14, 2007
Time: 10:00 a.m.
Place: Courtroom 8, 19th Floor
Judge: Hon. Charles R. Breyer

Trial Date: None Set

1 I, Karen S. Frank, declare as follows:

2 1. I am a member of the Bar of the State of California and a director of the firm of
3 Howard Rice Nemerovski Canady Falk & Rabkin, A Professional Corporation (“Howard,
4 Rice”), counsel for Plaintiffs Broadcast Music, Inc. et al. (“BMI”) in this action. I make this
5 declaration of my own personal knowledge, except as indicated, and could testify to the facts
6 stated herein if called upon to do so. I submit this declaration in support of Plaintiffs’
7 Motion for Summary Judgment.

8 2. I have served as BMI’s counsel in this litigation. I currently represent BMI in
9 numerous other copyright infringement litigations in Northern California and have
10 represented BMI in many such litigations in the past. Accordingly, I am very familiar with
11 the law, the issues and the procedures in this kind of litigation.

12 **EXPLANATION OF THE FEES**

13 3. Plaintiffs seek to recover fees for the legal work reasonably expended to pursue
14 its claims. This firm has incurred total fees to-date of \$8,723.00 on this matter and costs
15 totaling \$1,251.25 for a total of \$9,974.25. This fee total is made up primarily of the billing
16 time of myself and one legal assistant. I billed approximately 12.7 hours of time, at a rate of
17 \$385.00 per hour, for \$4,889.50. My legal assistant, Cindy Powers, billed approximately
18 18.7 hours at a rate of \$205.00 per hour, for \$3,833.50.

19 4. As a matter of regular business practice, every Howard, Rice attorney, legal
20 assistant, and certain other timekeepers prepare contemporaneous daily records of the time
21 he or she spends on each matter for each client and the work performed. Those records are
22 then entered in the normal course of business into Howard, Rice’s billing system. They do
23 not include estimates. The summary of fees in paragraph 10, *infra*, reflect the actual bills
24 submitted to Plaintiffs. The basis for these bills are the printouts from the Howard, Rice
25 timekeeping system.

26 5. The summary of fees described fees in paragraph 10, *infra*, are based on
27 applicable billing rates for each entry by a Howard, Rice attorney or other timekeeper. My
28 rate for this matter is discounted from my rate generally charged to and paid by the firm’s

1 clients for my services. The rate of the legal assistant who worked on this matter is the
 2 regular rate generally charged to and paid by the firm's clients for her services. Our firm's
 3 billing rates typically are adjusted at least once each year and are based on the firm's
 4 analysis of the market rate for attorneys and legal assistants with comparable qualifications,
 5 background, experience, and reputation. Billing clients for the separate time and work of
 6 both attorneys and support personnel is standard practice at Howard, Rice and, to the best of
 7 my knowledge, other private law firms.

8 6. All of the legal work performed by this firm was carried out by myself and Cindy
 9 Powers. Throughout this litigation, Howard, Rice sought to staff this case as we would any
 10 case and to litigate this action as efficiently as possible. My background and that of Cindy
 11 Powers are described below.

12 7. I am a director in Howard, Rice's intellectual property group. I have been with
 13 the firm since February 2004. From 1996 to February 2004, I was a partner at the law firm
 14 of Legal Strategies Group, and from 1987 to 1996, I was an associate, and then senior
 15 counsel, at Pillsbury Madison & Sutro. I specialize in intellectual property matters,
 16 including copyright and trademark matters. I received my J.D. from the University of
 17 California Hastings College of Law in 1987 and a B.A. in 1973 from Connecticut College. I
 18 had primary responsibility for all aspects of this matter. I have represented Broadcast Music,
 19 Inc. in dozens of matters similar to this one since 1988.

20 8. Assisting me on this case is Howard Rice legal assistant Cindy Powers. She has
 21 been a legal assistant for 14 years and has substantial experience in all aspects of civil
 22 litigation. Her current billing rate is \$205 per hour.

23 9. Our time was spent as follows:

24 Research factual background of case and prepare, file and serve Complaint:

25 Frank: 1.7 hours

26 Powers: 3.1 hours

27 Strategizing with client; serve Initial Disclosures; participate in Case management
 28 Conferences; prepare and serve Discovery Requests:

Frank: 8.6 hours

Powers: 12.3 hours

Draft and file Notice and Motion for Summary Judgment; Memorandum in Support of Motion for Summary Judgment; and Supporting Declarations; strategizing with client:

Frank: 2.4 hours

Powers: 3.3 hours

I certify that I have fully reviewed the bills and supporting data in this case and that this request is well grounded in fact and law.

I declare under penalty of perjury that this declaration was executed on November 6, 2007, in San Francisco, California, pursuant 28 U.S.C. Section 1746, and that the foregoing is true and correct.

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

/s/ Karen S. Frank
KAREN S. FRANK